

REMARKS

A new title and abstract of the disclosure are provided in response to the Examiner's comments appearing on page 2 of the Office Action. Support is provided by the disclosure appearing on page 1, lines 5-12, of the specification.

Claim 3 has been amended by the deletion of both recitations of the expression "standard conditions" and deletion of the recitation of the expression "a coupling agent" which has been replaced with "o-benzotriazol-1-yl-N,N,N',N'-tetramethyluronium tetrafluoroborate (TBTU)" as disclosed on page 4, lines 6-7 of the specification. Withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is requested.

Submitted concurrently herewith is a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) overcoming the obviousness-type double patenting rejection of claim 8 in view of US 6,313,136 to Amin et al. (the "'136 patent"). Withdrawal of the obviousness-type double patenting rejection is requested.

Claim 8 is also rejected under 35 U.S.C. §102(b) in view of the '136 patent. The Examiner relies on the compound disclosed in Example 2.2, column 26, of the '136 patent. As set forth in M.P.E.P. §2131, anticipation requires more than just a broad and random disclosure:

"The identical invention must be shown in as complete detail as is contained in the... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). (Emphasis added)

Applicant respectfully submits that the '136 patent does not anticipate claim 8. Specifically, claim 8 is directed to a 8-(2,6-dimethylbenzylamino)-2,3-dimethylimidazo[1,2-a]pyridine-6-carboxylic acid. In contrast, the compound disclosed by Example 2.2 is a 8-(2,6-diethylbenzylamino)-2,3-dimethylimidazo[1,2-a]pyridine-6-carboxylic acid. Accordingly, the compound disclosed by Example 2.2 of the '136 patent is not the same compound of claim 8.

For all of the foregoing reasons, the '136 patent fails to anticipate claim 8. Withdrawal of the §102 rejection is requested.

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CONCLUSION

Claims 1-3, 5, 7 and 8 are pending. In view of the comparative data set forth in the Declaration submitted herewith, Applicant submits that the application is in condition for allowance.

Authorization is hereby given to charge any fee due in connection with this communication to Deposit Account No. 23-1703.

Dated: 23 February 2009

Respectfully submitted,

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